Remarks

Applicants' undersigned representative again would like to express his appreciation of the interview kindly extended by the Examiner on January 29, 2007. During the interview the previously advanced rejection was discussed along with proposed claim amendments that the Examiner felt obviated the prior art rejection. In order to gain entry of the discussed amendments, the reply is being submitted in conjunction with a request for continued examination.

Regarding the claim objection, claim 16 has been amended so as to avoid any issue respecting the clarity of the claim.

Regarding the prior art rejection, claims 15 and 17 have been amended to clearly define patentably over the reference applied by the Examiner. As was mentioned during the interview, the device 670 in Delp et al. is not a force measuring device. Instead, the device 670 is a coordinate measuring machine (col. 13, lines 34-35). The use of the coordinate measuring machine is described as follows:

> In an alternative embodiment, the bounding points are identified on an x-ray image, or sampled intraoperatively with a coordinate measuring machine ("CMM") 670 or other measuring device. Once the bounding points are found, as represented in block 680, the planning software compares the bounding points to prosthesis size data, contained preferably in a look-up table located in a component database, as reflected by block 685, stored in a second memory means 690 (which may be the same as the first memory means 220, described above, or different from the first memory means 220) accessible to the computer 210, as shown in FIG. 4, to determine the proper component size. As already noted, this data must be provided for each prosthesis with which the system will be used. In a preferred embodiment, the prosthesis size data includes three-dimensional images of the prosthesis.

Column 13, lines 31-46. Thus, the coordinate measuring machine is used to identify bounding points for comparison to prothesis size data.

Thus, Delp et al. has not been found to disclose, in a combination similar to that set forth in claim 15 or 17, a force measuring device <u>coupled to a force applying device</u> that measures forces applied <u>by the force applying device</u> to the joint and/or to the structures connected to the joint. It necessarily follows that there is lacking any disclosure of a computational unit for receiving data from the force measuring device

and detection device and for ascertaining from said data the aperture angle of the joint for a particular applied force based on the detected positions and the measured force as set forth in claim 15, or a computational unit that is in data communications with the force measuring device and the detection device, and configured to ascertain the aperture angle of the joint based on the detected positions in relation to the force measured by the force measuring device, whereby the aperture angle of the joint can be ascertained for a particular applied force.

For at least the foregoing reasons, the claim objection and rejection will now be withdrawn.

In addition to the changes made in the claims, the specification has been amended to change "must" to "can". This change is not believed to introduce any new matter.

Request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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